

**REVISED PROPOSED REGULATION OF THE
DIRECTOR OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY**

LCB File No. R036-23

November 14, 2023

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1, 3, 8 and 14-16, NRS 231A.150; §§ 2 and 9-12, NRS 231A.150 and 231A.250, as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363; §§ 4-6 and 13, NRS 231A.150 and 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360; § 7, NRS 231A.150 and 231A.245, as amended by section 18 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363.

A REGULATION relating to economic development; authorizing the recapture of tax credits received for an impact qualified equity investment under certain circumstances; authorizing investments in or loans to certain businesses through one or more special purpose entities; revising provisions implementing the Nevada New Markets Jobs Act to include certain additional investments for which tax credits are authorized; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law enacts the Nevada New Markets Jobs Act. (Chapter 231A of NRS) Under the Act, certain business entities are entitled to receive credit against certain taxes imposed on insurance companies in exchange for making an investment in a qualified community development entity. (NRS 231A.200, as amended by section 14 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3358) Existing law requires a qualified community development entity in which such an investment is made to use 85 percent of the investment to make capital or equity investments in, or loans to, qualified active low-income community businesses. (NRS 231A.250; 26 U.S.C. § 45D) “Qualified active low-income community business” refers to certain small businesses in low-income communities. (NRS 231A.110, 231A.170; 26 U.S.C. § 45D) Senate Bill No. 240 (S.B. 240) of the 2023 Legislative Session expanded the Act to: (1) authorize a business entity to receive a similar tax credit in exchange for making an investment in an impact qualified community development entity; and (2) require an

impact qualified community development entity to use at least 85 percent of such an investment to make a capital or equity investment in, or a loan to, a qualified active low-income community business. (Chapter 517, Statutes of Nevada 2023, at page 3355) “Impact qualified active low-income community business” refers to certain businesses with the majority of owners who are members of certain historically disadvantaged groups. (Sections 2 and 7 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at pages 3355-56) Existing law authorizes the Director of the Department of Business and Industry to adopt regulations to carry out the provisions of the Act. (NRS 231A.150)

Existing law requires the Department to recapture a tax credit allowed under the Act in certain circumstances. (NRS 231A.250, as amended by section 19 of Senate Bill No. 240, Statutes of Nevada 2023, at page 3363) **Section 2** of this regulation additionally requires the Department to recapture a tax credit for an impact qualified equity investment made to an impact qualified community development entity that ceases to qualify as an impact qualified community development entity before the last credit allowance date.

Section 3 of this regulation authorizes a qualified community development entity or an impact qualified community development entity to make an investment or issue a loan to a qualified active low-income community business or an impact qualified active low-income community business: (1) directly; or (2) indirectly through one or more special purpose entities.

Section 15 of this regulation makes **section 3** retroactively applicable.

Existing regulations set forth the requirements to apply for the certification of a qualified equity investment and the procedure to obtain such a certification. (NAC 231A.020, 231A.040, 231A.060) Existing regulations interpret the provisions of law setting forth the circumstances under which the Department must recapture a tax credit. (NAC 231A.070, 231A.100, 231A.110) Existing regulations require a qualified community development entity to make annual reports to the Director concerning applicable qualified equity investments. (NAC 231A.120) **Sections 4-13** of this regulation make changes to conform to the changes made by S.B. 240. Specifically, **sections 4-13** integrate investments in impact qualified community development entities and investments in, or loans to, impact qualified active low-income community businesses into existing regulations governing the eligibility for and administration of tax credits under the Act and related reports.

Existing regulations authorize a person to obtain from the Director information on the Act and related regulations. (NAC 231A.130) **Section 14** of this regulation revises the contact information for the Director for the purpose of obtaining such information.

Existing law requires the Department, on or after July 1, 2024, to certify certain amounts of investments in qualified community development entities and impact qualified community development entities as being eligible for tax credits under the Act. (NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360)

Section 16 of this regulation prescribes a schedule for the submission of applications for such certification.

Section 1. Chapter 231A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *In addition to the circumstances described in NRS 231A.250, as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363, the Department shall recapture, from the entity that claimed the credit on a return, the amount of the tax credit allowed under chapter 231A of NRS pursuant to subsection 2 if the credit was claimed for an impact qualified equity investment that was made in an impact qualified community development entity that ceases to qualify as an impact qualified community development entity before the last credit allowance date for the investment.*

2. Any recapture made pursuant to subsection 1 must be proportionate to the amount of the impact qualified equity investment made after the entity ceases to qualify as an impact qualified community development entity.

Sec. 3. 1. *For the purpose of making a qualified low-income community investment, a qualified community development entity or an impact qualified community development entity may:*

(a) Directly make a capital or equity investment in or issue a loan to a qualified active low-income community business or an impact qualified active low-income community business, as applicable; or

(b) Make such an investment or issue such a loan indirectly through one or more special purpose entities.

2. *A special purpose entity through which a capital or equity investment is made or a loan is issued pursuant to paragraph (b) of subsection 1 may not pay any fees associated with the qualified low-income community investment.*

3. *For the purposes of this section, “special purpose entity” means an entity created solely for the purpose of making or otherwise facilitating a qualified low-income community investment in a qualified active low-income community business or an impact qualified active low-income community business.*

Sec. 4. NAC 231A.020 is hereby amended to read as follows:

231A.020 In addition to the requirements set forth in subsection 1 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, an application submitted pursuant to that subsection must:

1. Be in writing;
2. Be made on a form provided for that purpose by the Department;
3. Include, with regard to the qualified community development entity *or impact qualified community development entity* which is submitting the application:

- (a) The name of the qualified community development entity ~~or~~ *or impact qualified community development entity*;

- (b) Any name under which the qualified community development entity *or impact qualified community development entity* does or expects to do business;

- (c) The federal employer identification number of the qualified community development entity ~~or~~ *or impact qualified community development entity*;

- (d) The state in which the qualified community development entity *or impact qualified community development entity* is incorporated or otherwise organized, if applicable;
- (e) The date upon which the qualified community development entity *or impact qualified community development entity* was incorporated or otherwise organized, if applicable;
- (f) The mailing address of the qualified community development entity ~~[-]~~ *or impact qualified community development entity;*
- (g) The county in which the mailing address of the qualified community development entity *or impact qualified community development entity* is located;
- (h) The physical address of the qualified community development entity ~~[-]~~ *or impact qualified community development entity;*
- (i) Every telephone number, facsimile number, electronic mail address and Internet address of the qualified community development entity ~~[-]~~ *or impact qualified community development entity;* and
- (j) The name and title of the natural person who is the primary contact for the qualified community development entity ~~[-]~~ *or impact qualified community development entity;* and

4. Include any other information required by the Department.

Sec. 5. NAC 231A.030 is hereby amended to read as follows:

231A.030 For the purposes of subsection 3 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, if the names of the entities that are eligible to use the tax credits change as the result of a transfer of a qualified equity investment *or impact qualified equity investment* or an allocation pursuant to NRS 231A.210, the qualified community development entity *or impact qualified community*

development entity, as applicable, shall notify the Department of the change not later than 30 days after the date of the transfer or allocation, as applicable.

Sec. 6. NAC 231A.040 is hereby amended to read as follows:

231A.040 A qualified community development entity , *impact qualified community development entity* or transferee pursuant to subsection ~~[6]~~ 7 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, which provides to the Department, in accordance with subsection ~~[7]~~ 8 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, evidence of the receipt of a cash investment must include with the evidence provided to the Department:

1. Identifying information for any entity which will use the tax credits earned as a result of the issuance of the qualified equity investment ~~[i]~~ *or impact qualified equity investment*, including, without limitation, any information previously submitted in accordance with paragraph ~~[(e)]~~ (d) of subsection 1 of NRS 231A.230 ~~[i]~~ , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*;

2. Notification of any change to the names of the entities which are eligible to use the tax credits as required pursuant to subsection 3 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and NAC 231A.030; and

3. Any other information required by the Department.

Sec. 7. NAC 231A.050 is hereby amended to read as follows:

231A.050 1. A qualified active low-income community business *or impact qualified active low-income community business* shall not accept qualified low-income community investments from more than one qualified community development entity *or impact qualified community development entity, as applicable*, unless the ~~qualified active low-income community~~ business first obtains approval from the Department.

2. To request approval from the Department for the purposes of subsection 1, a qualified active low-income community business *or impact qualified active low-income community business* must submit to the Department at the address set forth in NAC 231A.130 a written request for approval on a form prescribed by the Department.

3. The Department will grant or deny a written request for approval submitted in accordance with subsection 2 not later than ~~24~~ 28 calendar days after the date on which the Department receives the written request. If the Department does not grant or deny the written request within ~~24~~ 28 calendar days after the Department receives the written request, the request shall be deemed approved.

4. The Department will approve a written request pursuant to subsection 3 unless the Department determines that it is in the best interests of this State to deny the written request.

Sec. 8. NAC 231A.060 is hereby amended to read as follows:

231A.060 1. Not later than 30 days after the date on which a qualified community development entity *or impact qualified community development entity* makes a qualified low-income community investment, the ~~qualified community development~~ entity shall notify the Department of the ~~qualified low-income community~~ investment.

2. Not later than 30 days after the date on which a qualified community development entity *or impact qualified community development entity* makes a qualified low-income community investment which causes 85 percent or more of the amount of a qualified equity investment *or impact qualified equity investment, as applicable*, regarding which the qualified community development entity *or impact qualified community development entity* has certified ~~qualified equity~~ investment authority to have been invested in qualified low-income community investments in this State, in accordance with the requirements of subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, as interpreted by the Department pursuant to NAC 231A.100, the qualified community development entity *or impact qualified community development entity* shall notify the Department that 85 percent or more of the applicable amount of the qualified equity investment *or impact qualified equity investment* has been invested in qualified low-income community investments in this State.

3. A notification made in accordance with this section must include any other information required by the Department.

Sec. 9. NAC 231A.080 is hereby amended to read as follows:

231A.080 For the purposes of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, if a qualified community development entity *or impact qualified community development entity* transfers, pursuant to subsection ~~6~~ 7 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, all or a portion of its certified ~~qualified equity~~ investment authority regarding a qualified equity investment *or impact qualified equity investment* to

another qualified community development entity ~~[]~~ *or impact qualified community development entity*, and:

1. The transferee causes a recapture of tax credits pursuant to NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will recapture only those tax credits relating to the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferee received certified ~~[qualified equity]~~ investment authority.

2. The transferor causes a recapture of tax credits pursuant to NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will recapture only those tax credits relating to the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferor retained certified ~~[qualified equity]~~ investment authority.

Sec. 10. NAC 231A.090 is hereby amended to read as follows:

231A.090 1. For the purposes of subsection 1 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, a qualified community development entity *or impact qualified community development entity* which has certified ~~[qualified equity]~~ investment authority pursuant to NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, regarding any portion of a qualified equity investment *or impact qualified equity investment* shall notify the Department not later than 30 days after the qualified community development entity ~~[]~~ *or impact qualified community development entity, as applicable*:

(a) Learns of the recapture under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, of any amount of a federal tax credit relating to the portion of the qualified equity investment *or impact qualified equity investment* regarding which the qualified community development entity *or impact qualified community development entity* has certified ~~qualified equity~~ investment authority; or

(b) Experiences a recapture event as described in section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D.

2. *For the purposes of section 2 of this regulation, a qualified community development entity or impact qualified community development entity which has certified investment authority pursuant to NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360, regarding any portion of a qualified equity investment or impact qualified equity investment shall notify the Department not later than 30 days after the qualified community development entity or impact qualified community development entity, as applicable, experiences a recapture event described in section 2 of this regulation.*

3. The provisions of this section apply to a qualified community development entity *or impact qualified community development entity* without regard to whether the ~~qualified community development~~ entity received its certified ~~qualified equity~~ investment authority regarding a portion of a qualified equity investment ~~[-]~~ *or impact qualified equity investment, as applicable:*

(a) By applying for and receiving certification pursuant to NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, for the qualified equity investment ~~[]~~ *or impact qualified equity investment*; or

(b) Through a transfer pursuant to subsection ~~[6] 7~~ of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, from another qualified community development entity ~~[]~~ *or impact qualified community development entity*.

Sec. 11. NAC 231A.100 is hereby amended to read as follows:

231A.100 For the purposes of subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will interpret the requirements of that subsection to apply only to the amount of the qualified equity investment *or impact qualified equity investment* regarding which a qualified community development entity *or impact qualified community development entity* has certified ~~[qualified equity]~~ investment authority. In accordance with the requirements of subsection 3 of NRS 231A.250 , *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363, and* as interpreted by the Department pursuant to this section:

1. If a qualified community development entity *or impact qualified community development entity* applies for and receives certification pursuant to NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, for a qualified equity investment *or impact qualified equity investment* and the ~~[qualified community development]~~ entity does not transfer, pursuant to subsection ~~[6] 7~~ of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada*

2023, at page 3360, any portion of its certified ~~[qualified equity]~~ investment authority regarding the qualified equity investment ~~[]~~ *or impact qualified equity investment*, the ~~[qualified community development]~~ entity must invest and maintain invested as required by subsection 3 of NRS 231A.250 , *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, an amount equal to 85 percent or more of the original amount of the qualified equity investment *or impact qualified equity investment* which is certified by the Department pursuant to subsection 3 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and for which cash is received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[]~~ , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*.

2. If a qualified community development entity *or impact qualified community development entity* transfers, pursuant to subsection ~~[6]~~ 7 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, all or a portion of its certified ~~[qualified equity]~~ investment authority regarding a qualified equity investment *or impact qualified equity investment* to another qualified community development entity ~~[]~~ *or impact qualified community development entity*:

(a) The transferee must invest and maintain invested as required by subsection 3 of NRS 231A.250 , *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, an amount equal to 85 percent or more of the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferee received certified ~~[qualified equity]~~ investment authority and for which cash is received in accordance

with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[7]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360.*

(b) The transferor must invest and maintain invested as required by subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, an amount equal to 85 percent or more of the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferor retained certified ~~[qualified equity]~~ investment authority and for which cash is received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[7]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360.*

Sec. 12. NAC 231A.110 is hereby amended to read as follows:

231A.110 For the purposes of subsection 4 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will interpret the requirements of that subsection to apply only to the original amount of a qualified equity investment *or impact qualified equity investment* which is certified by the Department pursuant to subsection 3 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and for which cash is received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[7]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360.* In accordance with the requirements of subsection 4 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363, and* as interpreted by the Department pursuant to this section:

1. Up to 25 percent of the original amount of the qualified equity investment *or impact qualified equity investment* may be invested in any one qualified active low-income community business *or impact qualified active low-income community business, as applicable*, without regard to whether the qualified community development entity *or impact qualified community development entity* which applied for and received certification pursuant to NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, for the qualified equity investment *or impact qualified equity investment* has transferred to another qualified community development entity *or impact qualified community development entity* any portion of the certified ~~[qualified equity]~~ investment authority regarding that qualified equity investment ~~[;]~~ *or impact qualified equity investment*; and

2. A qualified community development entity *or impact qualified community development entity* which, as referenced in subsection 1, receives a portion of the certified ~~[qualified equity]~~ investment authority regarding a qualified equity investment *or impact qualified equity investment* may invest , *as applicable*, in any one qualified active low-income community business *or impact qualified active low-income community business* up to 100 percent of the amount of the qualified equity investment *or impact qualified equity investment* over which the qualified community development entity *or impact qualified community development entity* received authority if the amount of the investment, when combined with all other investments in the qualified active low-income community business *or impact qualified active low-income community business* which are directly or indirectly drawn from the original qualified equity investment ~~[;]~~ *or impact qualified equity investment* does not exceed 25 percent of the original amount of the qualified equity investment *or impact qualified equity investment* as certified by

the Department pursuant to subsection 3 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and for which cash was received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[1]~~ , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*.

Sec. 13. NAC 231A.120 is hereby amended to read as follows:

231A.120 1. Except as otherwise provided in this subsection, with regard to each qualified equity investment *or impact qualified equity investment* for which a qualified community development entity *or impact qualified community development entity* receives certification from the Department pursuant to NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, the ~~[qualified community development]~~ entity shall submit to the Director an annual report for each of the 6 years immediately following the date on which the qualified equity investment *or impact qualified equity investment* was initially made. If the ~~[qualified community development]~~ entity transfers, pursuant to subsection ~~[6]~~ 7 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, all or a portion of its certified ~~[qualified equity]~~ investment authority regarding the qualified equity investment *or impact qualified equity investment* to another qualified community development entity ~~[1]~~ *or impact qualified community development entity, as applicable:*

(a) The transferee shall submit to the Director the annual report for the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferee receives certified ~~[qualified equity]~~ investment authority; and

(b) The transferor shall submit to the Director the annual report for the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferor retains certified ~~[qualified equity]~~ investment authority.

2. The annual report required by subsection 1 must be submitted:

(a) Not earlier than ~~[the annual anniversary date at the end]~~ *October 1* of the year to which the annual report relates and not later than ~~[5 business days after that annual anniversary date;]~~ *October 31 of the year to which the annual report relates;* and

(b) In writing and in an electronic format acceptable to the Director.

3. The first annual report required by subsection 1 for a qualified equity investment *or impact qualified equity investment* must:

(a) Provide evidence satisfactory to the Director that 85 percent or more of the amount of the qualified equity investment *or impact qualified equity investment* regarding which the qualified community development entity *or impact qualified community development entity* has certified ~~[qualified equity]~~ investment authority has been invested in *applicable* qualified low-income community investments in this State in accordance with the requirements of subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, as interpreted by the Department pursuant to NAC 231A.100;

(b) Identify ~~[any business owned by a person who is a member]~~, *as applicable, any business owned by a person who is a:*

(1) Member of a racial or ethnic minority group into which the qualified community development entity made a qualified low-income community investment relating to the qualified equity investment; *or*

(2) Woman, disabled veteran, person who is lesbian, gay, bisexual or transgender or member of a racial or ethnic minority group into which the impact qualified community development entity made a qualified low-income community investment relating to the impact qualified equity investment;

(c) Include a description of all organizations, agencies and other groups with which the qualified community development entity *or impact qualified community development entity* collaborated in identifying or selecting a qualified active low-income community business *or impacted qualified active low-income community business* into which to make a qualified low-income community investment;

(d) For each qualified low-income community investment relating to the qualified equity investment ~~or~~ *or impact qualified equity investment:*

(1) Include a bank statement of the qualified community development entity *or impact qualified community development entity* which clearly shows that the qualified low-income community investment was made;

(2) Provide evidence satisfactory to the Director, including, without limitation, a certified statement from the president of the business or another similar person, that the business into which the qualified low-income community investment was made was a qualified active low-income community business *or impact qualified active low-income community business, as applicable*, at the time the qualified low-income community investment was made;

(3) With regard to the business identified in subparagraph (2), indicate:

(I) The name of the business;

(II) The physical address of the business;

(III) The county in which the physical address of the business is located;

(IV) The federal employer identification number of the business;

(V) The standard industrial classification of the business; and

(VI) The amount of the qualified low-income community investment which was made in the business; and

(4) Include a projection of the total number of jobs which will be created because of the qualified low-income community investment and the total number of jobs which will be retained because of the qualified low-income community investment; and

(e) Include any other information required by the Director.

4. Except as otherwise provided in subsection 6, the second through sixth annual reports required by subsection 1 for a qualified equity investment *or impact qualified equity investment* must:

(a) Identify ~~[any business owned by a person who is a member]~~, *as applicable, any business owned by a person who is a:*

(1) Member of a racial or ethnic minority group into which the qualified community development entity made a qualified low-income community investment relating to the qualified equity investment; *or*

(2) Woman, disabled veteran, person who is lesbian, gay, bisexual or transgender or member of a racial or ethnic minority group into which the impact qualified community development entity made a qualified low-income community investment relating to the impact qualified equity investment;

(b) Identify any organization, agency or other group relating to ~~[a]~~, *as applicable:*

(1) A racial or ethnic minority group with which the qualified community development entity worked in making a qualified low-income community investment relating to the qualified equity investment; *or*

(2) *Women, disabled veterans, persons who are lesbian, gay, bisexual or transgender or members of a racial or ethnic minority group with which the impact qualified community development entity worked in making a qualified low-income community investment relating to the impact qualified equity investment;*

(c) For each qualified low-income community investment relating to the qualified equity investment ~~or~~ *or impact qualified equity investment, as applicable*, include the current total number of jobs created because of the qualified low-income community investment and the current total number of jobs retained because of the qualified low-income community investment;

(d) With regard to the numbers of jobs reported pursuant to paragraph (c), indicate , *as applicable*:

(1) *For each qualified low-income community investment relating to a qualified equity investment*, the current total number of jobs created and the current total number of jobs retained for persons who are members of a racial or ethnic minority group; *or*

(2) *For each qualified low-income community investment relating to an impact qualified equity investment, the current total number of jobs created and the current total number of jobs retained for women, disabled veterans, persons who are lesbian, gay, bisexual or transgender or members of a racial or ethnic minority group;*

(e) With regard to the jobs reported pursuant to paragraph (c), indicate the average salary;

- (f) Identify the current cost basis of the qualified equity investment ~~or~~ *or impact qualified equity investment*; and
- (g) Include any other information required by the Director.
5. In an annual report required by subsection 1 for a qualified equity investment ~~or~~ *or impact qualified equity investment*, the qualified community development entity *or impact qualified community development entity* may include any information in addition to the information required pursuant to subsection 3 or 4 to demonstrate the effectiveness of a qualified low-income community investment relating to the qualified equity investment ~~or~~ *or impact qualified equity investment*.
6. In the second through sixth annual reports required by subsection 1 for a qualified equity investment ~~or~~ *or impact qualified equity investment*, the qualified community development entity *or impact qualified community development entity* shall not include information relating to a qualified low-income community investment which has been sold by, returned to or repaid to the qualified community development entity ~~or~~ *or impact qualified community development entity*.
7. For the purposes of subparagraph (4) of paragraph (d) of subsection 3:
- (a) A job may be projected to be created if the job is reasonably anticipated by the qualified community development entity *or impact qualified community development entity* to meet the definition of “job created” beginning at any time on or before the last credit allowance date for the applicable qualified equity investment *or impact qualified equity investment* and continuing for 26 or more consecutive weeks, during which time the hours worked in the position are reasonably anticipated to average 30 or more hours per week.

(b) A job may be projected to be retained if the job is reasonably anticipated by the qualified community development entity ~~or~~ *or impact qualified community development entity*:

(1) To meet the definition of “job retained” at any time on or before the last credit allowance date for the applicable qualified equity investment ~~or~~ *or impact qualified equity investment*; and

(2) To be filled by an employee who meets the requirements of subparagraphs (1), (2) and (3) of paragraph (a) of subsection 8 beginning when the job meets the definition of “job retained” and continuing for 26 or more consecutive weeks, during which time the hours worked in the position are reasonably anticipated to average 30 or more hours per week.

8. As used in this section:

(a) “Job created” means, as represented by a qualified active low-income community business *or impact qualified active low-income community business* located within this State, a new, full-time and permanent position at the qualified active low-income community business *or impact qualified active low-income community business* which is filled by one or more natural persons, each of whom:

(1) Is a resident of this State and is expected by the qualified community development entity *or impact qualified community development entity* to be a resident of this State during the entire year for which the applicable annual report is made;

(2) Works and, after being hired, continues to work for the remainder of the year for which the applicable annual report is made:

(I) On the premises of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, located within this State; or

(II) Off the premises of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, only if the position is a qualified off-premises position; and

(3) Is employed by the qualified active low-income community business ~~or impact~~ *or impact qualified active low-income community business, as applicable*:

(I) Directly; or

(II) As a contractual employee only if the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, offers benefits to the contractual employee which are comparable to the benefits the business offers to the persons it employs directly.

↪ The term also includes a new position related to a qualified active low-income community business *or impact qualified active low-income community business* which is filled by a self-employed contractor if, during the year for which the applicable annual report is made, the self-employed contractor pays taxes to this State and works not less than 1,040 hours for the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, performing professional services for the business.

(b) “Job retained” means, as represented by a qualified active low-income community business *or impact qualified active low-income community business* located within this State, a position filled by an employee of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, if the employee meets the requirements of subparagraphs (1), (2) and (3) of paragraph (a), the employee was hired by the

business to fill the position before the business received the applicable qualified low-income community investment, and:

(1) The qualified active low-income community business *or impact qualified active low-income community business* was in existence and located in this State for not less than 2 years immediately preceding the date on which the business received the applicable qualified low-income community investment, and:

(I) The qualified active low-income community business *or impact qualified active low-income community business, as applicable*, lost 20 percent or more of its net worth during either the 1-year period or the 2-year period immediately preceding the date on which the business received the applicable qualified low-income community investment; or

(II) The president of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, or another similar person certifies that the position would not have been retained but for the applicable qualified low-income community investment; or

(2) The position would have been transferred to a location outside of this State but for the applicable qualified low-income community investment, as evidenced either by a certified statement from the president of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, or another similar person or by a written and accepted offer of relocation assistance from an economic development agency from another state.

(c) “Qualified off-premises position” means a position:

(1) Which has been filled for 26 or more consecutive weeks;

(2) For which, during the time the position has been filled, the hours worked in the position have averaged 30 or more hours per week; and

(3) For which it is anticipated by the qualified community development entity *or impact qualified community development entity* that the hours worked in the position will continue to average 30 or more hours per week for each tax year of the qualified active low-income community business *or impact qualified active low-income community business* which occurs, in whole or in part, on or before the last credit allowance date for the applicable qualified equity investment ~~[]~~ *or impact qualified equity investment.*

Sec. 14. NAC 231A.130 is hereby amended to read as follows:

231A.130 A person may obtain clarification of or information concerning the requirements of this chapter or chapter 231A of NRS and any procedure for submitting applications, requests or reports to the Department or the Director pursuant to this chapter or chapter 231A of NRS by sending a written request for the clarification or information to the Director at the following address:

~~[Attn: Director]~~ *Director's Office*

Nevada Department of Business and Industry

Attn: New Markets Jobs Act Program

~~[555 East Washington Avenue, Suite 4900]~~ *3300 W. Sahara Avenue, Suite 425*

Las Vegas, Nevada ~~[89101-1075]~~ *89102*

Sec. 15. This regulation is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

1. Section 3 of this regulation applies retroactively to a qualified low-income community investment made on or before the effective date of this regulation.

2. As used in this section, “qualified low-income community investment” has the meaning ascribed to it in NRS 231A.140, as amended by section 12 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3358.

Sec. 16. This regulation is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

1. For the purpose of certifying \$170,000,000 in qualified equity investments and \$30,000,000 in impact qualified equity investments on or after July 1, 2024, pursuant to subsections 5 and 6, respectively, of NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360:

(a) The Department of Business and Industry shall begin accepting applications for certification of qualified equity investments and impact qualified equity investments on July 1, 2024.

(b) An application for certification of a qualified equity investment or an impact qualified equity investment which is received by the Department before July 1, 2024, shall be deemed to have been received by the Department on July 1, 2024.

(c) All applications for certification of a qualified equity investment or an impact qualified equity investment which are received by the Department on July 1, 2024, or which are deemed to have been received by the Department on July 1, 2024, pursuant to paragraph (b), shall be deemed to have been received on the same day for the purposes of subsection 4 of NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360, by the Department on July 1, 2024.

2. As used in this section:

(a) “Impact qualified equity investment” has the meaning ascribed to it in section 4 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3356.

(b) “Qualified equity investment” has the meaning ascribed to it in NRS 231A.130.